UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

UNITED STATES OF AMERICA,

Plaintiff

v. **Civil Action No. 2:10-1087**

$88,029.08, More or Less,
in United States Currency,

Defendant

MEMORANDUM OPINION AND ORDER

Pending is the motion filed November 8, 2011, by interested parties Katherine A. Hoover, M.D., and John F. Tomasic styled as a "MOTION TO REQUIRE COMPETENT ARTICLE III JUDGE AND REMOVE MAGISTRATE MARY STANLEY."

The movants appear concerned about two recent events. First, they disagree with the magistrate judge's October 27, 2011, decision directing the Clerk to send filed documents to movants by regular mail at their address in the Bahamas "knowing that mail takes about three weeks." (Mot. at 1). In the October 27, 2011, order, the magistrate judge fully explained her decision:

> The court notes that the interested parties have declined to provide their electronic mail address or to obtain a PACER account. (ECF No. 126.) That is their choice, although it is a foolish one; by having a PACER

> account, the interested parties can monitor the docket sheet in their case and review copies of documents almost as soon as they are filed, rather than awaiting delivery. As . . . noted, the Clerk will not send documents to the interested parties by Federal Express or other expensive delivery system; in the absence of an electronic mail address for the interested parties, the Clerk will use standard United States Postal Service delivery. The interested parties will therefore experience delay in learning of developments in their case. Moreover, the court will not entertain any excuses from the interested parties as to why they are late in filing a response or may fail to file a response.

(Ord. at 1-2). The order reflects the magistrate judge's commendable desire that movants be fully, and timely, informed concerning case events.

Moreover, Dr. Hoover has since provided an email address to the Clerk by which notice of filed documents will be transmitted forthwith to her and to Mr. Tomasic (with whom she apparently shares a conventional address) via the CM/ECF system.[1] So long as that email address remains active, Dr. Hoover and Mr. Tomasic will, in lieu of mailing, thereby be alerted immediately to filings entered on the docket. There is no basis to challenge the magistrate judge's impartiality. The magistrate judge is vested in this action with the authority to make the decisions she has made, and to offer the recommendations she has submitted,

[1]The docket sheet now reflects an email address for Dr. Hoover. On November 4, 2011, the Clerk sent two orders to Dr. Hoover via that email address.

pursuant to 28 U.S.C. § 636 and the November 8, 2010, referral order.

Second, movants appear dissatisfied with the September 9, 2011, order entered by the undersigned denying their request to certify a ruling for interlocutory appeal. The court's analysis follows:

> The court of appeals has observed that section 1292(b) "should be used sparingly . . . ." Myles v. Laffitte, 881 F.2d 125, 127 (4th Cir. 1989).
>
> The proposed subject of the appeal does not constitute a "controlling question of law as to which there is substantial ground for difference of opinion . . . ." Id. § 1292(b). The court, accordingly, ORDERS that the motion to certify be, and it hereby is, denied.

(Ord. at 1-2). As is reflected above, the court's September 9, 2011, order is supported by controlling authority. To the extent movants seek reconsideration of that ruling, the court ORDERS that the request be, and it hereby is, denied.

Based upon the foregoing, the court further ORDERS that the motion be, and it hereby is, denied.

The Clerk is directed to forward copies of this written opinion and order to all counsel of record and any unrepresented parties.

DATED: November 9, 2011

John T. Copenhaver, Jr.
United States District Judge